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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,323	07/20/2006	Josephus Hubertus Eggen	US040048US2	9305

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BRIARCLIFF MANOR, NY 10510

EXAMINER

HAN, QI

ART UNIT	PAPER NUMBER
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2626

MAIL DATE	DELIVERY MODE
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02/03/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/597,323	Applicant(s) EGGEN ET AL.	
	Examiner QI HAN	Art Unit 2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 9-13 and 20-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 14-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 June 2008 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged.

Election/Restrictions

2. Applicant's election without traverse of invention Group I, claims 1-8 and 14-19 in the reply filed on 11/09/2009 is acknowledged.

It is reminded that this response filed 11/09/2009 contains claims 9-13 and 20-26 drawn to an invention (Group II) nonelected without traverse. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01. Claims 9-13 and 20-26 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being a nonelected invention (Group II).

Specification and Drawing

3. The disclosure is objected to because of the following:
 - a. The abstract using full page of copy of international publication is not proper. Appropriate correction is required.
 - b. On page 9, paragraph 3 and page 10, paragraph 2, the statements regarding "hypernym tree(s)" and "hyponym tree(s)" lack clearly/specifically definitions/descriptions to

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distinguish the difference(s) between the recited two types of trees. Appropriate correction/clarification is required.

c. On page 10, paragraph 2, the meaning of statement “For each of the hyponym trees, the number of **words that are common to the hyponym tree** and **the set** of keywords are **counted** (step 470)” is unclear. Appropriate correction/clarification is required.

d. On page 11, paragraph 3 and Figs. 5A-5F, the recited/referenced contents of “sentence”, “key words” “wordstems”, “pairs of trees listed in the first two fields”, and “the hyponym trees of level-5 parents”, are not shown on the corresponding figures. It also noted that left tree-like chart/graph in Fig. 5D lacks description and/or reference in the specification. Appropriate correction on the specification and/or figures is required.

e. Further, all drawings are objected to because the figures 1 to 5 lack proper legends (or textural labels) for each of functional blocks or referenced numbers. Suitable legends (or textural labels or contents) for each of the functional blocks and/or the corresponding referenced numbers in the drawings are required by the examiner (see MPEP 608.02-IX).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the

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renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-8 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding method claim 1, the claim is/are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. Supreme Court precedent¹ and recent Federal Circuit decisions² indicate that a statutory “process” under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing. While the instant claim(s) recite a series of steps or acts to be performed, the claim(s) neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process. In this case, the claimed steps

¹ *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876).

² *In re Bilski*, 88 USPQ2d 1385 (Fed. Cir. 2008).

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of “extracting... obtaining... presenting ...”, are of sufficient breadth that it would be reasonably interpreted as a series of steps completely performed mentally, verbally or without a machine. For example, the claim language itself is sufficiently broad to read on merely using a paper and pencil and/or merely mentally stepping through the claimed processes/operations (such as a person takes notes/graphs with keywords in a conversation, then finds out the related information in his memory, news paper, articles, books, radio, or TV programs, then shows or tells the content to other person in the conversation), without any specific machine. Therefore, the claimed invention, as whole, is directed to non-statutory subject matter.

Regarding claims 2-8, the rejection is based on the same reason as described for claim 1, because the claims recite/include the same or similar problematic limitations as claim 1, wherein all steps are of sufficient breadth that it would be reasonably interpreted as a series of steps completely performed mentally, verbally or without a machine. For example, the claim language itself is sufficiently broad to read on merely using a paper and pencil with drawings and/or mentally going through each of operation steps, such as “performing...”, “determining...”, without a specific machine.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 2-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Regarding claim 2, it recites the limitation "**the** step of determining a topic of..." There is insufficient antecedent basis for this limitation in the claim(s).

Regarding claim 3, it recites the limitation "**the** step of performing speech recognition ..." There is insufficient antecedent basis for this limitation in the claim(s).

Regarding claim 4, it recites the limitation "**the** step of determining wordstems of ..." There is insufficient antecedent basis for this limitation in the claim(s).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-3, 5-8, 14-16 and 18-19 are rejected under 35 U.S.C. 102(e) as being anticipated by SCAHILL (US 7,542,902 B2) hereinafter referenced as SCAHILL.

As per **claim 1**, SCAHILL discloses 'information provision for call centers' (title) for 'monitoring a conversation between call center agent and a caller' (abstract), comprising:

extracting (spotting or recognizing) one or more keywords from said conversation (Figs. 4-5, blocks 42 or S.7.2, col. 5, lines 4-17 and col. 8, lines 32-65; also Figs. 8-10);

obtaining content based on said keywords (Figs. 4-5, blocks 44 or S.7.3-4; col. 5, lines 4-17 and col. 8, lines 32-65; also Figs. 8-10); and

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presenting said content to one or more of said people in said conversation (Figs. 4-5, blocks 10 or S.7.5; col. 5, lines 4-17 and col. 8, lines 32-65; also Figs. 8-10).

As per **claim 2** (depending on claim 1), as best understood in view of the rejection under 35 USC 112 2nd (see above), SCAHILL further discloses “determining (identifying) a topic of said conversation based on said extracted keywords and wherein said obtaining content step is based on said topic”, (col. 5, lines 4-17, ‘to spot keywords within the conversation which relate to the topic of the conversation, so as to identify the conversational context (i.e. determining a topic)’ and ‘the keywords are then used by computer to suggest (obtain) further topics (content) of conversation’; also see col. 8, line 65 to col. 9, line 21).

As per **claim 3** (depending on claim 1), as best understood in view of the rejection under 35 USC 112 2nd (see above), SCAHILL further discloses “performing speech recognition to extract said keywords from said conversation wherein said conversation is a verbal conversation”, (Fig. 6).

As per **claim 5** (depending on claim 1), the rejection is based on the same reason described for claim 2, because it also reads on the limitation of claim 5.

As per **claim 6** (depending on claim 2), the rejection is based on the same reason described for claim 2, because it also reads on the limitation of claim 5.

As per **claim 7** (depending on claim 1), SCAHILL further discloses “performing a search of one or more content repositories (‘knowledge database’), (Fig. 4 and col. 8, lines 32-67).

As per **claim 8** (depending on claim 1), SCAHILL further discloses “performing a search of the Internet based on said topic”, (col.3, lines 22-53, ‘internet search engine’, ‘web browser’; col.15, lines 35-46, ‘URL’, ‘knowledge management is web (internet) based).

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As per **claims 14-16 and 18-19**, they recite a system (apparatus). The rejection is based on the same reasons described for claims 1-3 and 5-6 respectively, because the method claims and apparatus claims are related as apparatus and method of using same, with each claimed element's function corresponding to the claimed method step, wherein blocks 118 and 152 in a computer disclosed by SCAHILL read on the claimed "memory" and "at least one processor".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over SCAHILL in view of HARRISON et al. (US 2003/0069880 A1) hereinafter referenced as HARRISON.

As per **claim 4** (depending on claim 1), as best understood in view of the rejection under 35 USC 112 2nd (see above), SCAHILL does not expressly disclose "determining **wordstems** of said keywords and wherein said obtaining content step is based on said wordstems". However, the feature is well known in the art as evidenced by HARRISON who discloses 'natural language query processing' (title), providing the enhanced natural language information retrieval technique' (abstract), comprising 'utilizing a knowledge repository to identify as completely as possible the words' and 'appropriate variations or expansions of those words' (p (paragraph)11), including 'sternming process' for 'identification of stem words' (p31-p32). Therefore, it would

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have been obvious to one of ordinary skill in the art at the time the invention was made to modify SCAHIL's searching/obtaining content using identified keywords by further providing stemming process, as taught by HARRISON, for the purpose (motivation) improving automation of natural language searching and/or identification of related information (HARRISON: p11).

As per **claim 17** (depending on claim 14), the rejection is based on the same reason described for claim 4, because it also reads on the limitation of claim 17.

Conclusion

8. Please address mail to be delivered by the United States Postal Service (USPS) as follows:

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Effective January 14, 2005, except correspondence for Maintenance Fee payments, Deposit Account Replenishments (see 1.25(c)(4)), and Licensing and Review (see 37 CFR 5.1(c) and 5.2(c)), please address correspondence to be delivered by other delivery services (Federal Express (Fed Ex), UPS, DHL, Laser, Action, Purolater, etc.) as follows:

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to QI HAN whose telephone number is (571)272-7604. The examiner can normally be reached on M-TH:9:00-19:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on (571)-272-7602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

QH/qh

January 31, 2010

/Qi Han/

Primary Examiner, Art Unit 2626